

- A. EO 12866: Regulatory Planning and Review
- B. Paperwork Reduction Act
- C. Regulatory Flexibility Act
- D. Unfunded Mandates Reform Act
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- G. Executive Order 13045: Children's Health Protection
- H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer Advancement Act
- J. Congressional Review Act

I. What Is the Important Background Information for This Final Rule?

Section 202(m)(5) of the CAA directs EPA to promulgate regulations requiring OEMs to provide to:

any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines, and the Administrator for use by any such persons, * * * any and all information needed to make use of the [vehicle's] emission control diagnostic system * * * and such other information including instructions for making emission-related diagnoses and repairs. Such requirements are subject to the requirements of section 208(c) regarding protection of trade secrets; however, no such information may be withheld under section 208(c) if that information is provided (directly or indirectly) by the manufacturer to its franchised dealers or other persons engaged in the repair, diagnosing or servicing of motor vehicles.

On August 9, 1995, EPA published a final rulemaking (60 FR 40474) which set forth the Agency's service information regulations. These regulations, in part, required each Original Equipment Manufacturer (OEM) to do the following: (1) List all of its emission-related service and repair information on a Web site called FedWorld (including the cost of each item and where it could be purchased); (2) either provide enhanced information to equipment and tool companies or make its OEM-specific diagnostic tool available for purchase by aftermarket technicians, and (3) make reprogramming capability available to independent service and repair professionals if its franchised dealerships had such capability. These requirements were intended to ensure that aftermarket service and repair facilities have access to the same emission-related service information, in the same or similar manner, as that provided by OEMs to their franchised dealerships.

Industry estimates indicate that independent technicians perform up to 80% of all vehicle service and repairs.

Further, independent technicians perform more repairs on older vehicles (which are more likely than newer vehicles to have high emissions) than technicians in franchised dealerships. These conclusions are confirmed by statistics issued from the Motor and Equipment Manufacturers Association (Automotive Industry Status Report, 1999. EPA Air Docket A-2000-49, item II-F-05) that (1) the level of excess emissions increases as a vehicle's mileage increases, and (2) the percentage of non-dealer repairs increased and dealer repairs decreased as a vehicle's mileage increased and warranty coverage is no longer an issue.

In addition, OEM comments submitted during the comment period for the prior service information proposal (56 FR 48278, September 24, 1991) spoke to the integral role aftermarket technicians play in servicing the approximately 200 million vehicles in use. Many OEMs indicated that the number of service bays in their franchised dealerships are inadequate to service their fleets of vehicles and that they depend on aftermarket technicians to provide service for their customers' vehicles, especially for those vehicles out of warranty (See "Response to Comments" document for the August 1995 Final Rule, Docket A-90-35, Item V-C-02). This further highlights the need for independent technicians to have access to timely and appropriate emission-related repair and service information.

Since 1995, the Agency has gained experience in the implementation of the service information requirements. Additionally, changing technology has made it necessary to revisit the current requirements to take advantage of advanced technology.

As a result of our experience in implementing the 1995 regulations, EPA proposed revisions to those regulations on June 8, 2001 (66 FR 30830). The proposal highlighted several main areas for revision. First, we proposed that OEMs make full text emissions-related service information available via the World Wide Web. Second, we proposed that OEMs provide equipment and tool companies with information that allows them to develop pass-through reprogramming tools. Third, we proposed that OEMs make available enhanced diagnostic information to equipment and tool manufacturers and to make available OEM-specific diagnostic tools for sale. In addition, we proposed extending the service information requirements to the availability of emission-related service information for heavy-duty vehicles up to 14,000 pounds.

Today's final regulations are intended to preserve freedom of choice by consumers in where to have their vehicles serviced.

II. What Are the Requirements of This Final Rule?

A. What Information Is Required To Be Made Available by OEMs Under This Final Rule?

Today's action finalizes a provision that requires OEMs to make available to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines all information necessary to make use of the OBD systems and any information for making emission-related repairs, including any emissions-related information that is provided by the OEM to franchised dealers. This information includes, but is not limited to, the following:

(1) Manuals, technical service bulletins (TSBs), diagrams, and charts (the provisions for training materials, including videos and other media are discussed in Section IIIB).

(2) A general description of the operation of each monitor, including a description of the parameter that is being monitored.

(3) A listing of all typical OBD diagnostic trouble codes associated with each monitor.

(4) A description of the typical enabling conditions for each monitor to execute during vehicle operation, including, but not limited to, minimum and maximum intake air and engine coolant temperature, vehicle speed range, and time after engine startup.

(5) A listing of each monitor sequence, execution frequency and typical duration.

(6) A listing of typical malfunction thresholds for each monitor.

(7) For OBD parameters that deviate from the typical parameters, the OBD description shall indicate the deviation for the vehicles it applies to and provide a separate listing of the typical values for those vehicles.

(8) Identification and scaling information necessary to interpret and understand data available to a generic scan tool through "mode 6," pursuant to Society of Automotive Engineers SAE J1979, EE Diagnostic Test Modes.

(9) Any information related to the service, repair, installation or replacement of parts or systems developed by third party (Tier 1) suppliers for OEMs, to the extent they are made available to franchise dealerships.

(10) Any information on other systems that can directly effect the emission system within a multiplexed